

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

ERIC WATKINS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. CIV-09-1381-C
	)	
CORRECTIONAL OFFICER	)	
DONNELLY, et al.,	)	
	)	
Defendants.	)	

ORDER

This civil rights action brought by a prisoner, proceeding pro se, was referred to United States Magistrate Judge Robert E. Bacharach, consistent with the provisions of 28 U.S.C. § 636(b)(1)(B). Judge Bacharach entered a Report and Recommendation on April 4, 2011, recommending that the action be dismissed against Defendant Reich, for the failure to timely serve him. Plaintiff has objected. The Court therefore considers the matter de novo.

Plaintiff's sole objection is that he has been diligently attempting to find Defendant Reich and although unsuccessful, continues to seek his location. As reflected in the Report and Recommendation, Plaintiff has been on notice since June 4, 2010, that dismissal would result from failure to comply with service requirements. Plaintiff has received at least six extensions of this original deadline. A FOIA request in September 2010 informed Plaintiff that Defendant Reich had retired from the Bureau of Prisons. Plaintiff has not found him yet.

As Judge Bacharach correctly pointed out, in light of this inability to locate the Defendant, further extension of the service deadline would be futile.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge, and this action is dismissed, without prejudice, as against Defendant Donald Reich.

IT IS SO ORDERED this 18th day of April, 2011.



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ROBIN J. CAUTHRON  
United States District Judge